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MESSAGES

OF

JOSEPH E. BROWN,

GOVERNOR OF GEORGIA,

TO THE

HOUSE OF REPRESENTATIVES,

RETURNING WITHOUT HIS APPROVAL

THE BILL TO REDUCE THE SALARIES OF THE JUDGES,

AND THE BILL FIXING THE

PAY OF MEMBERS OF THE LEGISLATURE;

ALSO, HIS

SPECIAL MESSAGE

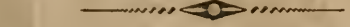
TO THE

GENERAL ASSEMBLY,

RELATIVE TO THE TRANSFER OF

THE STATE TROOPS TO THE CONFEDERATE SERVICE.

Communicated at the Session of 1861.



MILLEDGEVILLE:
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1861.

Veto of the Bill to Reduce the Salaries of the Judges.

EXECUTIVE DEPARTMENT,
MILLEDGEVILLE, GA., Nov. 27th, 1861.

To the House of Representatives:

I return herewith the Bill entitled "An Act to fix the salaries and compensation of certain officers mentioned therein, and for other purposes," without my sanction.

Prior to the Act passed by the Legislature of 1857, the salary of the Governor of this State was three thousand dollars per annum; of the Judges of the Supreme Court, twenty-five hundred dollars each; of the Judges of the Superior Courts, eighteen hundred dollars each; the State House officers, sixteen hundred dollars each; and the members of the Legislature, each five dollars per day, and four dollars for every twenty miles travel in going to, and returning from the Capitol.

By an Act of 1857, the salary of the Governor was raised to four thousand dollars; the Judges of the Supreme Court to thirty-five hundred dollars each; the Judges of the Superior Courts, to twenty-five hundred dollars each; and the members of the Legislature, to six dollars per day, besides mileage.

A Bill passed by the present General Assembly, and presented for my signature with this Bill, with a view to the reduction of salaries, fixes the pay of members of the General Assembly at five dollars per day, and mileage, which was the old rate prior to 1857. The bill now under consideration, fixes the salary of the Governor at $3,000 per annum, which was, also, the old rate; and while it imposes additional duties upon one of the three State House officers, it makes no reduction in the salary of either of the three, below the old rate; but it reduces the salary of each Judge of the Supreme Court to $2,000, which is a reduction of $1,500, or $500 per annum below the old rate.

The Judges have, in my opinion, received less compensation in proportion to the labor performed by them, than

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almost any public functionaries of the State. Upon what principle of justice or propriety this heavy discrimination is made against them, I am wholly unable to determine. If it is proper to fix the salaries of the Judges at a sum far below that which existed prior to 1857, is it not equally proper that the salaries of the Governor and members of the Legislature, who are, together, the law-making power, be cut down in like proportion? It is idle to suppose that we can command the best talent of the State, on either bench, at the prices fixed by this Bill: and there is certainly neither wise statesmanship nor just economy in that legislation which drives the ablest men of the State from these important positions, by withholding reasonable and just compensation for their services. Men can doubtless be found who will undertake to fill these places for half the compensation proposed by the Bill; but they are not men whose abilities or qualifications entitle them, as public officers, to the respect or confidence of the people.

It may be said, that this reduction of salaries of the Judges, is only intended to apply during the war, when their labors are less onerous than in times of peace. The Bill contains no such limitation. If, however, this is the object, the Bill wholly fails to meet the case. If the new Constitution does not vacate the offices of all the Judges, (and the opinion of many of our ablest Lawyers is, that it does not.) each is entitled to serve till the end of the term for which he was commissioned, and the Constitution denies to the Legislature the power to diminish the salary of either during his continuance in office. We have three Judges of the Supreme, and sixteen Judges of the Superior Courts. Of this number, the commission of only one Supreme Judge and four Superior Judges, expires during the ensuing year, or during the probable duration of the war. If this Bill becomes a law, the result will be, that twelve of the Judges of the Superior Court will each continue to receive a salary of $2500 per annum, while four of them, performing the like labor, will each receive only $1500 per annum; and two of the Supreme Judges will receive each $3500 per annum while the other who sits with them on the same bench and does the same labor, will receive only $2,000 per annum. So far as the purposes of economy, as a war measure, are concerned, the Bill only reduces the salaries of five out of the nineteen Judges, leaving the other fourteen as heretofore; while it makes the most unjust discrimination between those who are, and those who are not affected by its provisions. The whole saving for the ensuing year, would only be the difference between the present salary and the proposed salary of five Judges, which would

not, probably, return to the Treasury as much money as the General Assembly will take from it in payment for the time spent by them in the consideration of this question. I am not, therefore, able to see either the economy of the measure, or its ultimate benefits to the people.

I am aware that it is the opinion of many persons, that the people are always on the side of the lowest salaries. My own observation has been, that the people are generally governed by principles, by justice, and common sense; that they are always willing to pay just compensation to those who render them valuable services; and that they stand most firmly by him who stands most inflexibly by the right, whether it appears popular at the time or not.

In conclusion, it may not be out of place for me to remark, that I have not the slightest personal interest in this Bill, as my own salary, for the time for which I have been elected, is fixed by law, and cannot, under the Constitution, be increased or diminished by any action of the General Assembly. The same was true in 1857, when the salary was raised to $4,000 per annum, and I served two years after the passage of the Act, at the old rate of $3,000 per annum.

I would not have withheld my sanction from a Bill which placed the Governor, members of the Legislature, Judges, and State House officers, each upon the old salary allowed prior to 1857, or which reduced each in like proportion below that; but I cannot consent to yield my sanction to what I consider the unjust discrimination made against the Judges by this Bill. Let us do justice alike to those who have a voice here, and to those who cannot be heard.

JOSEPH E. BROWN.

Veto of a Bill to fix the Pay of Members of the General Assembly.

EXECUTIVE DEPARTMENT,
MILLEDGEVILLE, GA., November 29th, 1861.

To the House of Representatives:

The Constitution of this State declares that the Governor shall have "the *revision* of all bills passed by both Houses before the same shall become laws." If the framers of the Constitution had intended that the Governor should sign

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each and every bill passed by the General Assembly, without the exercise of his judgment upon the question of the propriety of the passage of the bill, they would no doubt so declared. When they made it his duty to *revise* a bill, they certainly intended that it should meet his approval before it received his signature.

The history of the past has, I think, abundantly shown, that much more injury has been done by injudicious and improper legislation, than by the failure of the legislative power to enact necessary laws. The people of the State, acting, no doubt, upon this view, have in their sovereign capacity, determined that no bill shall become a law till it has met the approval of the House of Representatives, the Senate, and the Governor; or, having been disapproved by the Governor, has received the approval of two-thirds of the House and two-thirds of the Senate. The duty of the Governor therefore, under the Constitution, is not merely that of a Clerk, to sign whatever may be presented to him by the General Assembly; but he is made responsible to the people, with the General Assembly, for each law that passes: and it is his duty to *revise* each bill; and if he approves, to sign it, if not, to return it to the House in which it originated. While therefore he has no power to originate a measure, he has the power, and it is his duty to interpose his veto in the way of the passage of such laws as his judgment cannot approve. If he fails to do this when the Constitution makes it his duty, he does not, in the language of his official oath, "faithfully execute the office of Governor." It naturally follows that he is no more guilty of disrespect or of usurpation of power when he returns a bill which he does not approve, than the House is guilty of disrespect when it refuses to concur in a measure passed by the Senate. Acting upon this view of the constitutional obligations which rest upon me as part of the law-making power, I feel it my duty to return to the General Assembly, and invite them to reconsider, and if they still approve to pass in more solemn form such measures passed by them as do not command the approval of my judgment. In discharging this duty, I see no reason why any conflict or unkind feeling should arise between the different departments of the Government, or why either should be offended at the other, for exercising its constitutional powers, or for discharging its constitutional duties. The difference is simply one of opinion between co-ordinate branches of the Government, to be decided in the manner pointed out by the Constitution, and is not one of personal strife. In giving my reason for withholding my assent from such measures as I do not approve, my habit is to use plain language. But entertaining as I do

the most profound respect for each co-ordinate branch of the Government, nothing is more foreign to my purpose than to give offence to any. With these remarks upon what I consider the duty of the Governor in connection with the legislation of the State, I herewith return to the House in which it originated, a bill entitled "an act to fix the amount of compensation the members and officers of the General Assembly shall receive for their services, and for other purposes therein mentioned." This bill fixes the pay of the members of the General Assembly, at five dollars each per day, and four dollars for every twenty miles travel by each going to and returning from the Capitol. This is as high as the highest per diem compensation and milage ever received, so far as I am informed, by any General Assembly prior to 1857, and was prior to that time the compensation of members in time of peace and general prosperity.

The General Assembly has already determined by a vote of two-thirds in each house, that the present emergencies require greater economy and lower fees than those which existed prior to 1857, and have reduced the salaries of Judges of the Superior Courts, from twenty-five hundred, down to fifteen hundred dollars. If this action be correct, and it has received the sanction of the law making power in the most deliberate and solemn form known to our Constitution, it is certainly proper that the compensation of the members and officers of the General Assembly be reduced in like proportion.

The reduction of the salary of a Judge of the Supreme Court from thirty-five hundred to two thousand dollars, is a reduction of three-sevenths of the whole amount of his compensation. The compensation of a member of the General Assembly for the last three years has been six dollars per day. Three-sevenths of this would be $2 57 cents and a fraction of a cent per day, if I have made no mistake in the calculation. Take this from six dollars, and it leaves $3 43 per day, which would be the proper compensation of a member of the General Assembly should they apply the same rule of reduction and economy to their own salaries or compensation, which they apply to the Judges. This would be a reduction of one dollar and fifty-seven cents per day on the wages of each member, more than is made by the bill under consideration. There are 213 members of the General Assembly. This would be an additional reduction of $334 41 per day, or $13,376 40, in a session of forty days. The whole amount saved to the Treasury by the reduction of the salaries of the Judges for the ensuing year, would be only $5,500. As there will be but one of

the Supreme, and four of the Superior Judges who can be affected by the reduction. This is much less than half the amount which will be saved by a proportionate reduction of the wages of the members of the General Assembly. Upon the principal of reduction solemnly declared in case of the Judges, the people have, in my opinion, a right to expect that the members of the legislature will make this reduction in their own wages, and thereby save to the Treasury this sum of $13,376 40, together with three-sevenths of the mileage, which would be an additional saving of about $3,020 00. Believing that it is the duty of the General Assembly to apply the same rule of reduction to their own wages which they apply to the wages of the Judges. I respectfully invite a reconsideration of the bill.

JOSEPH E. BROWN.

Special Message to the General Assembly relative to the transfer of the State troops to the Confederate Service.

EXECUTIVE DEPARTMENT,
MILLEDGEVILLE, GA., Dec. 5th, 1861.

To the General Assembly:

The correspondence between the Secretary of War and myself which has been laid before you, shows that I did all in my power to induce the Government of the Confederate States to increase the force upon our coast, and to make the necessary preparation for our defence, prior to the organization by me of the military forces now in the service of the State. In making this statement, I do not wish to be understood that I reflect upon that Government for a wilful neglect of duty. I believe it is the wish and intention of those in authority, to use the forces and means at their command, in such manner, and at such places as will best promote the general good. But viewing the field from the stand point which they occupy, they have been of opinion, as their action has shown, that there was greater necessity for the troops and the resources at their command, at other points. Hence, they failed to make the necessary preparation for our defence.

Appreciating the difficulties with which the Confederate Government had to contend, and hoping that they might

make the necessary preparations for the defence of the State, I delayed action on State account as long as I could possibly do so, consistently with the public safety. Almost every newspaper received from the North in the months of August and September, contained statements of the strength of the fleet which was being fitted out by the enemy, and of the intention to send it with an invading force against our coast as soon as the season would permit.

In the formation of the Constitution of the Confederate States, each State reserved to itself the sovereign right to *engage in War* when "actually invaded, or in such imminent danger as will not admit of delay." The statute of our own State authorized me to accept the services of ten thousand volunteers, of different arms, in such proportions as the exigencies of the service might require. The people of the coast continually called on me for protection. The general voice of the people of the State was, that they were entitled to it, and that the safety of the whole State depended, in a great degree, upon the successful defence of the coast. The Constitution gave me the right, and the statue made it my duty, to act. I did so; but not until the latest day when I could have time to organize and prepare the troops for service, before the invasion.

The organization has been conducted in strict conformity to the requirements of the statute, and the Generals have been appointed to command the troops, by and with the advice and consent of the Senate now in session. Suppose I had made a calculation, and determined it would cost too much for the State to assist in her own defence, and had refused to call out the troops, and had met the General Assembly and informed you I had made no preparation for the defence of the State, for the reason that it must cost a large sum of money; and that I had again and again asked the Secretary of War to defend us, and that I relied on the three or four thousand Confederate troops then on our coast, to protect the city of Savannah, and the whole coast against the powerful force sent for our subjugation; what would have been the verdict passed upon my conduct by the General Assembly, and every intelligent patriot in Georgia?—Would it not have been one of universal and just condemnation?

Results have shown that I was not mistaken when I decided that the danger was imminent, and commenced active preparation to meet it.

The invader's troops are on our soil, and his flag now waves over our territory, and insults the dignity and sovereignty of our State.

Thus menaced with subjugation and degradation, is it

possible that we, as the representatives of the people, and as co-ordinate branches of the government, can spend our time in discussions about the cost of our defence; or whether the State or Confederate Government shall for the present, assume the burden and make the expenditure; or that our action can be influenced by party consideration, or by personal hatred or personal favoritism; or that we can stop to consider whether our action will tend to sustain, or to advance the political fortunes of one man, or to injure those of another? Surely we have graver duties than these to perform, and weightier responsibilities to meet.

We have now been over four weeks in session. Our troops in the field have been in need of supplies, and we have made an appropriation of only one hundred thousand dollars. This is not more than half the necessary expense of our military operations since the commencement of the session, and is but little over double the sum necessary to pay the expense which the General Assembly has cost the State for the same length of time.

I mention these things in no spirit of fault-finding, but in the hope that dissensions and jealousies, if they exist, may be banished from our midst, and that we may unite as one man, and promptly provide the necessary means to defend the State, and drive the invader from her soil.

The organization of the State troops is becoming a very efficient one, which will soon make them terrible to the invader.

At this important period, in the face of the enemy; when organization and harmony are of the utmost importance, a proposition is made that we pause and count the cost of our defence, and that we transfer our army to the Confederacy, by regiments, battalions or companies; and if they are not received, that we disband the troops and thus get rid of the expense.

Let us examine this question of expense for a moment.—Suppose we dismiss from our breasts every feeling of patriotism and every generous impulse, with every desire for liberty or independence, and consider the question as one of sordid gain, of mere dollars and cents. What reasonable man, having an estate of seven hundred millions of dollars, and finding it in litigation, and the title in a precarious condition, would hesitate a moment to give able counsel five millions to defend and secure the title? The property of the people of Georgia is worth seven hundred millions of dollars—the State is now invaded, and every dollar of it hangs upon the result. If we are conquered, all is lost. Is it possible in this state of the case, that we can refuse to give five millions for the support of our gallant troops who

are now in the field, ready to spill the last drop of their blood to defend and secure our title? Strong as the case thus presented may be, this is a narrow, contracted view of the subject. All the property and all the money in the State is as nothing compared with the principles involved, and the consequences to us and our posterity.

But do we get rid of the expense by the proposed transfer? I maintain that it does not in any view of the question save to the State one dollar. If the troops are transferred, the Confederacy will pay their expenses, and Georgia, as a member of the Confederacy, will have to meet her part of it. If she retains them, at the end of the war the Confederacy will assume the expense of the Georgia troops as well as of the troops of the other States, and Georgia will only have to pay her part. If the Confederacy does not receive the troops, and they are disbanded, the city of Savannah, and the whole sea coast, and the southern part of the State, must fall into the hands of the enemy, and the destruction of property will cost us ten times as much as the highest appropriation any one would ask to support the troops. There is not, therefore, one dollar of economy or of saving to the State in the proposition.

Virginia, Tennessee, North and South Carolina, Louisiana, and probably other States, are calling, and have called into the field, large numbers of State troops, to repel the invasion and protect their property. At the end of the war, the expense incurred by each of these States, will be assumed by the Confederacy, and Georgia will have to pay her part of it. If, while they defend themselves, she permits her coast to fall into the hands of the enemy and her citizens to be plundered rather than incur the expense necessary to the protection of her people, the other States of the Confederacy may be saved their part of the expense which was necessary to her defence. But instead of saving expense, is she not the loser?

Tennessee expended five millions of dollars in less than six months, and no complaint is heard from her Legislators, or her people, that they cannot afford to incur the expense of self-defence.

Two other grave questions, in this connection, demand our careful consideration. Have we the power to transfer the troops to the Confederacy, without their consent? And has the President the power to accept them even with their consent? Neither is true.

First, as to our power to transfer them: the troops in response to the call of the Executive of the State, have volunteered to serve the State as *State troops;* and have been mustered into the service of the State, and not into the ser-

vice of the Confederacy. It was no part of the contract between the troops and the State, that they should be transferred to the service of the Confederacy; and the State has no right to make the transfer without their consent. They are not cattle to be bought and sold in the market. They are brave, generous, high-toned freemen, who have left their homes at the call of their State, and are now undergoing all the fatigues and hardships of camp life for her defence.—While they are brave enough to defend their rights, they are intelligent enough to understand them; and we are greatly mistaken if we suppose they will submit to a change of their present organization, or to an act of injustice to those who have their confidence, and who have been legally appointed to command them. They are, as our statute which was passed to meet this very emergency, required, organized into companies, battalions, regiments, brigades, and a Division. If we disband the division and turn over the brigades, we are, in my opinion, guilty of gross injustice to the gallant and chivalrous son of Georgia, whom we have just called from an honorable command in Virginia, where he has rendered distinguished service, and have invited to the command of the troops of his native State. In response to the call made upon him by the Governor with the advice and consent of the Senate, he has resigned his command in the Confederate service, and is on his way to Georgia; and it is now proposed, when he reaches the State, to inform him that he has been deceived; that we have changed our policy, and that his services are not needed.

If we disband the brigades, we do injustice to the Brigadier Generals, who have been called from important pursuits, and invited by the highest appointing power in the State, to the commands which they now hold. Among this number is the gallant Walker, whose glorious deeds have shed lustre upon the character of the State, while his blood has stained almost every battle-field where his country's rights have been vindicated for the last quarter of a century.

If we disband the regiments, we do injustice to the Colonels, who have been legally elected to command them; and if we disband the battalions and tender the troops by companies, we do like injustice to the Lieutenant Colonels and Majors. In any, or either of these cases, we must expect that the gallant men under their command, will make the cause of their officers common cause, and refuse to submit to such injustice. We have not, therefore, the power to transfer the troops without their consent; and I feel quite sure they will never give their consent unless the whole organization is transferred in its *totality*, retaining every of-

ficer, from the Major General down to the lowest grade in his position, with his rank and command.

Second, As to the power of the President to accept the troops—the law passed by Congress authorises the President to accept them by companies, battalions or regiments, but gives him no authority to accept a brigade or division. The law also defines the number of which a company shall consist, and gives him no power to accept a company with less than sixty-four, nor more than one hundred privates.—It will be borne in mind that the Statute uses the term *privates*. Add to these the four commissioned and eight non-commissioned officers, and two musicians, and the *minimum* number of a company which the law authorizes the President to accept is seventy-eight, while the *maximum* number is one hundred and fourteen. The President has no more right under the Statute, to accept a company with less than sixty-four privates, and a proper number of officers, than he has to accept a brigade or division. If the one is illegal the other is equally so.

The Statute of our own State declares that a company of infantry shall consist of not less than fifty, nor more than eighty RANK AND FILE. This term includes non-commissioned officers and musicians as well as privates. Add the four commissioned officers, and our *minimum* number is fifty-four, and the *maximum* number eighty-four. A company must, therefore, approximate very near our largest number before it reaches the smallest number with which it can be received into the Confederate service. If I had had plenty of arms with which to arm the State troops, I might have refused to accept companies with less than the smallest Confederate or largest State number. But I was compelled to appeal to the companies to bring good country arms with them, and as the number of these arms which could be made efficient within the reach of a company was generally limited, I was frequently obliged to accept companies with little more than the smallest number allowed by the Statute, or to reject them and permit them to disband. While therefore, each and every company is organized in conformity to our own Statute, and has a legal number, probably each one of two thirds of the companies, has less than the smallest number authorized by the Confederate Statute, and could not be accepted by the President or mustered into the service of the Confederacy. If we could be supposed to be capable of the injustice to the Generals, Colonels, Lieutenant Colonels and Majors which would result from a disbanding of the State organization, and should tender the troops by companies, it is very clear that over two thirds of them could not be accepted, and must, therefore, be disbanded

and sent home. No one who carefully investigates this question can fail to see that an appropriation of money for the support of the troops, which has a condition annexed to it, making the appropriation dependent upon the tender of the troops to, and their acceptance by the Confederacy, is equivalent to a refusal to vote supplies for their support, and an order to disband them in the face of the enemy.—But it may be said that Congress could pass a law athorizing the President, in this particular case, to receive the companies with their present organization consisting of less than sixty-four privates. This is true; and it is equally true that Congress could pass a law authorizing the President to accept them as organized, by divisions and brigades.

The troops might consent to the transfer on the latter supposition, as this would do justice to their officers, and maintain their organization as it was formed by the State; but it is very certain, in my opinion, that they will not consent to the transfer upon any other terms. If we disband these troops because we fail to stand by our State organization and protect their rights, or because we refuse to make the necessary appropriation to maintain them in the field, we disband an organization of as noble Georgians as ever assembled, with arms in their hands ready and willing, if they can do so with honor, to defend their State, and if need be to sacrifice their lives a willing offering upon her altar. Do this, and what encouragement do we offer to others to step forward and take their places?

I deny that such action would be just to our brave Generals on the one hand, or to the companies in the condition above described, on the other; or indeed to any company, which at the call of the State, has organized in conformy to her laws, and been accepted into service for her defence.

I deny that it is just to the city of Savannah, or the sea-cost, by this extraordinary legislation to drive from the field nearly ten thousand of Georgia's most gallant sons, and leave these exposed points at the mercy of the enemy. And I deny that such legislation would reflect the will of the noble constituency who sent us here, and committed to our keeping their honor and their safety. They will never consent to see Georgia's proud escutcheon tarnished, or her flag trailing in the dust before her enemies because it must cost her a few dollars to maintain her noble sons in the field for her defence. The adoption of any policy looking to a transfer of the State troops, which may result in their disorganization, at a time when their services are so much needed by the State, would be, in my opinion, not only unwise but suicidal, and must result in the most disastrous consequences to the State.

If this fatal policy should be determined upon by the General Assembly, I will be responsible for none of the consequences growing out of it; and, in the name of the people of Georgia, I now, in advance, enter my solemn protest against it. If the State troops are disbanded, or the appropriations to maintain them are made upon the condition that they be transferred or disbanded, which is equivalent to an order to disband them, it will become my duty, as the Executive of the State, to proclaim to her people, that, while the enemy is thundering at her gates, her representatives have left me powerless for her defence, by withholding the necessary means, and even taking from me those already at my command.

If I have used strong language, I mean no disrespect.—When all that is dear to a people is at stake, the occasion requires the utmost frankness and candor.

JOSEPH E. BROWN.

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